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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x  
4 UNITED STATES OF AMERICA,

5 v.

17 CR 684 (ER)

6 CHRISTIAN DAWKINS AND MERL  
7 CODE,

8 Defendants.

9 -----x

10 New York, N.Y.  
11 May 8, 2019  
12 11:10 a.m.

13 Before:

14 HON. EDGARDO RAMOS

15 District Judge

16 APPEARANCES

17 GEOFFREY S. BERMAN

18 United States Attorney for the  
19 Southern District of New York

20 ROBERT L. BOONE

21 NOAH D. SOLOWIEJCZYK

22 ELI J. MARK

Assistant United States Attorneys

23 HANEY LAW GROUP PLLC

24 Attorney for Defendant Dawkins

25 BY: STEVEN A. HANEY

CHANEY LEGAL SERVICES, LLC

BY: DAVID A. CHANEY, JR.

-and-

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BY: ANDREW A. MATHIAS

Attorneys for Defendant Code

ALSO PRESENT: JOHN VOURDERIS, Special Agent FBI

YOLANDA BUSTILLO, Paralegal Specialist USAO

EMILY GOLDMAN, Paralegal Specialist USAO

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1 (Jury not present)

2 THE COURT: We do have another note and it asks us to  
3 provide further definition of specific intent that's defined at  
4 the bottom of page 30. And the note reads as follows: On the  
5 bottom of page 30, specific intent to defraud means to  
6 knowingly, willfully, and with specific intent to deceive for  
7 the purpose of depriving, etc. Can you redefine without  
8 reusing the same term? And they also ask for coffee.

9 MR. MARK: With a smiley face.

10 THE COURT: Smiley face. And then I will give the  
11 parties a couple of minutes to think about how they may want to  
12 respond.

13 MR. HANEY: We may, your Honor.

14 THE COURT: OK.

15 (Pause)

16 THE COURT: You folks ready?

17 MR. HANEY: Yes, your Honor.

18 MR. CHANEY: Yes, your Honor.

19 THE COURT: OK. Mr. Solowiejczyk.

20 MR. SOLOWIEJCZYK: Your Honor, we have reviewed the  
21 note. We think that there's some language that could just give  
22 the jury a little more color about the sorts of things they  
23 need to consider in assessing specific intent to defraud. I  
24 don't think there's a way to redefine what those terms mean.  
25 It would just be about putting a little more meat on the bones

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1 for them and giving them some things to think about. So we  
2 have some proposed language for your Honor's consideration.

3 THE COURT: OK.

4 MR. SOLOWIEJCZYK: I was starting to write it out but  
5 I can just read it aloud.

6 THE COURT: OK.

7 MR. SOLOWIEJCZYK: This is actually from the charge  
8 that Judge Kaplan gave in the Gatto case so I'll read that and  
9 we have a second portion that relates specifically to honest  
10 services fraud because the Gatto case was just a straight wire  
11 fraud case, as your Honor knows.

12 THE COURT: You can sit down. Move the microphone  
13 closer.

14 MR. SOLOWIEJCZYK: So, this is the first proposed  
15 language.

16 The ultimate facts of knowledge and criminal intent,  
17 though subjective, may be established by circumstantial  
18 evidence based upon a person's outward manifestations, his or  
19 her words, his or her conduct, his or her acts and all of the  
20 surrounding circumstances and the rational or logical  
21 inferences that may be drawn from it. You may also infer, but  
22 are not required to infer, that people intend the natural and  
23 probable consequences of their actions. Accordingly, when the  
24 necessary result of a scheme is to deceive others, fraudulent  
25 intent may be inferred from the scheme itself.

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1 That's from the Second Circuit D'Amato case, your  
2 Honor.

3 THE COURT: D'Amato?

4 MR. SOLOWIEJCZYK: That particular line.

5 And then this is specific to honest services fraud.  
6 And this comes from I can cite the cases afterwards but this is  
7 from our requests to charge.

8 However -- actually no however. You may consider any  
9 evidence that the defendants intended that the relevant coach  
10 would intentionally not disclose or conceal material  
11 information about a financial or personal conflict of interest,  
12 money received, or any behavior indicating consciousness of  
13 guilt as evidence of specific intent to defraud.

14 That's adapted from Judge Preska's charge in U.S. v.  
15 Tanner which was a private sector honest services fraud case.  
16 In addition, similar charges were given in United States v.  
17 Percoco, 16 CR 776. There's a Second Circuit case called  
18 Middlemiss, 217 F.3d 112 that the jury can infer criminal  
19 intent from nondisclosure of financial interests by a public  
20 official. And then United States v. Sawyer, 85 F.3d 713 (First  
21 Circuit 1996) where a public official has an affirmative duty  
22 to disclose material information, intentional violation of that  
23 duty proves deceit.

24 And here, your Honor, there was evidence that these  
25 coaches had ongoing disclosure duties. There was also

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1 evidence, explicit discussions in the evidence about how the  
2 defendants knew the coaches could not disclose these payments,  
3 that these payments would actually have to be hidden. So we  
4 think it's appropriate, and there's at least, as to one  
5 witness, evidence that they affirmatively did not disclose to  
6 the university.

7 THE COURT: Mr. Chaney.

8 MR. CHANEY: And, your Honor, I don't think -- much  
9 like the answer to the first question, I don't think that the  
10 government's proposed answer is responsive to the question.

11 The jury is not asking what evidence should we rely  
12 upon to make this decision. They're asking a very pointed  
13 question which is: What does specific intent to defraud mean?  
14 And they're asking directly for the definition to not include  
15 the phrase "specific intent." I think they quote directly from  
16 the Court's charges on page 30 which uses the phrase "specific  
17 intent" to define the phrase specific intent.

18 The defense proposed answer to the question goes  
19 directly to answer just that question and nothing more without  
20 unduly highlighting any of the evidence that the jury has  
21 received in this case.

22 As the Court knows, it's the jury's job to weigh and  
23 apportion evidence as they see fit. And I think the  
24 government's proposed answer to this question unduly highlights  
25 the evidence, particularly highlighting evidence that the

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1 government believes shows that either or both of the defendants  
2 is guilty which is inappropriate.

3 So our proposed answer is: A person acts with  
4 specific intent to deceive when the conscious objective of his  
5 or her conduct is to deceive for the purposes of depriving the  
6 relevant university of its right to its coach's honest  
7 services. It simply uses the phrase "conscious objective"  
8 which is pretty common in case law when associating definitions  
9 with specific intent and answers the question of how do we  
10 define this phrase without using --

11 THE COURT: Can you repeat that. A person acts with  
12 specific intent when?

13 MR. CHANEY: With specific intent to deceive when the  
14 conscious objective of his or her conduct is to deceive for the  
15 purpose of depriving the relevant university of its right to  
16 its coach's honest services.

17 THE COURT: The last part again? Of his or her  
18 conduct is --

19 MR. CHANEY: To deceive for the purpose of depriving  
20 the relevant university of its right to its coach's honest  
21 services.

22 That second part is the continuation after the  
23 ellipses in the jury's question. It's what's already in the  
24 instruction.

25 MR. SOLOWIEJCZYK: Your Honor, a couple things.

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1           One, I think the specific intent to deceive, the  
2           language we proposed in particular about undisclosed financial  
3           interests, concealment of those things, it actually goes  
4           straight to specific intent to deceive. It is responsive to  
5           that. It explains further the ways they can infer whether  
6           there was specific intent to deceive or not. So it is  
7           responsive to the question.

8           THE COURT: Why don't you -- are you able to printout  
9           what you have, to write it -- to give it to me in --

10          MR. SOLOWIEJCZYK: Yes, we can. If we could have one  
11          minute for a paralegal to go get a laptop we can type it out  
12          for you very quickly.

13          THE COURT: Because I think I want to incorporate  
14          aspects of both of your recommendations.

15          MR. CHANEY: Your Honor, if we're going to be in the  
16          business of pointing the jury to particular arguments, then the  
17          defense would ask for a few minutes to write our own arguments  
18          like the government.

19          MR. SOLOWIEJCZYK: Your Honor, one thing on the  
20          defendants' proposed instruction, the conscious objective  
21          language the government does view as problematic. As your  
22          Honor is aware from the charge that you've already given, there  
23          is the dual intent instruction. And the defendants don't need  
24          to be solely motivated by an intent to defraud. It just needs  
25          to be a partial motivation. The conscious objective language

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1 risks the jury thinking that that needs to be sort of the sole  
2 driving purpose of why they're doing what they're doing.

3 So we do have some issues with it. And we're not -- I  
4 mean, look, obviously specific intent to defraud has been  
5 defined many times in many different places and it's not  
6 typically defined by using the term conscious objective.

7 THE COURT: Let's wait and see what we got.

8 MR. SOLOWIEJCZYK: We have our proposed language here  
9 for your Honor's review. I'm going to let my colleague look at  
10 it.

11 THE COURT: I'm sorry?

12 MR. SOLOWIEJCZYK: We have the proposed language. I'm  
13 going to let my colleagues read it to make sure it's  
14 understandable.

15 THE COURT: OK.

16 (Pause)

17 THE COURT: Can we get a copy?

18 MR. SOLOWIEJCZYK: We could also type this out if  
19 that's easier, your Honor.

20 THE COURT: Let me just read it. Government's  
21 proposed additional language. The ultimate facts of knowledge  
22 and criminal intent, though subjective, may be established by  
23 circumstantial evidence based upon a person's outward  
24 manifestation, his or her words, his or her conduct, his or her  
25 acts, and all of the surrounding circumstances and the rational



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1 or logical inferences that may be drawn from it. You may also  
2 refer, but are not required to infer, that people intend the  
3 natural and probable consequences of their actions.

4 Accordingly, when the necessary result of a scheme is  
5 to deceive others, fraudulent intent may be inferred from the  
6 scheme itself. You may consider any evidence that the  
7 defendants intended that the relevant coach would intentionally  
8 not disclose or conceal material information about a financial  
9 or personal conflict of interest, money received or any  
10 behavior indicating consciousness of guilt as evidence of  
11 specific intent to defraud.

12 So that's that language.

13 MR. CHANEY: Your Honor, with respect to what I can  
14 remember from what the Court just read, we would renew our  
15 objection on the same grounds. We think that the thrust of it  
16 is problematic for substantially the same reasons I already  
17 brought up, particularly the last paragraph where there is  
18 explicit reference to particular facts in the case. From what  
19 I -- what appeared to be the first paragraph of the  
20 government's instruction, these are the things you can  
21 generally use, we don't have as strong of an objection to that.  
22 I think it's just the general statement of what the jury can  
23 rely upon in determining the facts and applying it to the law.  
24 So it seems substantially similar to what the Court has already  
25 charged them on.

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1 THE COURT: I'll think in the first place it's not  
2 unusual for jury instructions in the first instance to  
3 incorporate actual facts of the case. I tend not to do that  
4 just because it creates a lot of controversy amongst the  
5 parties and I give them just sort of the basic outlines of the  
6 definition. But it's not unusual for courts to do that.

7 Here, the jury apparently is struggling with how to  
8 approach a particular subject. And I think it's helpful to  
9 give them some idea of how they can construe the evidence in  
10 the case in helping them to get at this issue.

11 MR. HANEY: Your Honor, may I add?

12 My position really, your Honor, is similar to the  
13 first issue that we had. This is a smart jury. We have two  
14 lawyers on the jury.

15 I believe that asking the government and asking the  
16 defense to provide a clarifying instruction, what it's really  
17 doing is a self-serving process. Certainly the government is  
18 not going to offer an instruction that I submit, though I  
19 believe they're in good faith doing their job, they're not  
20 going to submit an instruction that's going to help the  
21 defense, for sure; and the defense isn't going to submit an  
22 instruction or any proposed clarity that's going to help the  
23 government.

24 I believe that this jury should be able to figure this  
25 out. They have it defined for them. They're a smart jury.

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1 And they listened very intently to this case; one of the  
2 smartest juries I've ever tried a case in front of, your Honor.  
3 I think your Honor would probably agree. I think they should  
4 be able to figure this out without having self-serving  
5 interjections from both sides.

6 THE COURT: Clearly, they're not. So they requested  
7 guidance.

8 MR. CHANEY: Your Honor, to the degree --

9 THE COURT: By the way, it's not because they're not  
10 smart. These are some difficult concepts.

11 MR. HANEY: Understood.

12 MR. CHANEY: Insofar as the Court is considering  
13 adding some instructions that incorporate the facts of our  
14 case, the defendants would propose the following language:  
15 When assessing whether the government has proved if either  
16 defendant acted with the specific intent to deceive, you may  
17 consider whether the defendants believed that the respective  
18 universities had knowledge of or endorsed their coach's  
19 practice of violating NCAA rules during the recruitment of  
20 college athletes. If the defendants believed that they were  
21 inducing coaches to engage in conduct that was expected by  
22 their respective universities, they may lack the specific  
23 intent to defraud those universities of the honest services of  
24 their coaches.

25 THE COURT: That I will not instruct them on. OK.

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1           Let me ask the parties their view of something along  
2 these lines and I'm happy to hear any argument against it.

3           Whether the particular defendant you are considering  
4 intended to break the law does not matter. What matters is  
5 whether he intended to do that which is unlawful.

6           MR. SOLOWIEJCZYK: No objection from the government on  
7 that.

8           MR. CHANEY: We think that's an accurate statement of  
9 law. So I don't think I can object to that.

10          THE COURT: Very well. So why don't I work on this a  
11 little bit and come back out. I don't think we've gotten a  
12 note asking -- telling us to hurry up. As we know, they are  
13 perfectly capable of doing that. OK.

14          Also I have an 11:45. So if they're here -- and I  
15 don't see anyone here.

16               (Continued on next page)

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1 THE COURT: Any objections?

2 MR. MARK: No, your Honor.

3 MR. CHANEY: One moment, Judge.

4 THE COURT: Yes. I hope to give them a copy of this.

5 MR. CHANEY: Your Honor, I can speak for Mr. Code. I  
6 think Mr. Haney can either piggyback on what I have to say or  
7 add his own comments.

8 With respect to the Court's use of the language that  
9 the defense already proposed being in the second sentence of  
10 the second paragraph --

11 THE COURT: Yes.

12 MR. CHANEY: -- "On the facts of this case, a person  
13 acts with specific intent to deceive when," and the Court took  
14 out the word "conscious." I believe we had "the conscious  
15 objective" and the Court used the indefinite article and took  
16 out the word "conscious." I think if we leave the switch to  
17 the indefinite article but put back the word "conscious"  
18 because it's clear it cannot be an accidental purpose. It is  
19 the conscious purpose. They do already have an instruction on  
20 dual intent, but it must be an intent, one that's known in the  
21 mind of the actor when the conduct occurs. So we would ask  
22 that "conscious" be put back in that statement.

23 We would object to everything after the word  
24 "accordingly." If the Court leaves those statements in, we  
25 think that the word "others" at the -- "Accordingly, when the

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1 necessary result of a scheme is to deceive others," I think  
2 that's somewhat misleading under the context because if you're  
3 trying to deceive someone other than the victim, then we don't  
4 think that's an appropriate statement of the law.

5 THE COURT: I'm happy to take "others" out.

6 MR. CHANEY: We would ask that "others" be modified to  
7 "the victim of the fraud," or something like that, because  
8 that's the intent that matters. For example, if there is a  
9 scheme to deceive the NCAA, that does not necessarily -- then  
10 it doesn't stand to reason that fraudulent intent to deceive a  
11 university may be inferred from that scheme.

12 THE COURT: Anything else?

13 MR. CHANEY: That's it, Judge.

14 THE COURT: OK. Mr. Solowiejczyk.

15 MR. SOLOWIEJCZYK: Your Honor, on the "deceive  
16 others," we're OK changing it to "deceive the university." We  
17 don't have a problem with that so it's not confusing.

18 On the "conscious objective" language, your Honor,  
19 one, the charge is full of repeatedly informing the jury that  
20 they can't -- that this has to be done knowingly. That's been  
21 made very clear to the jury. But, two, the word "objective,"  
22 you can't have an unconscious objective. An objective is  
23 something that you seek to do. So you don't need the word  
24 "consciously" respectfully.

25 MR. CHANEY: And, your Honor, I can point the Court to

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1 probably a half dozen cases even in the fraud context where the  
2 phrase "conscious objective" is used explicitly to instruct the  
3 jury, even from this district. I'll cite the Court to U.S. v.  
4 Karron, K-a-r-r-o-n, 750 Fed.Supp.2d 480. That's a Southern  
5 District from 2011 saying, for example, the defendant's  
6 misapplication must have been the product of the defendant's  
7 conscious objective to spend the money for an unauthorized  
8 purpose, using that phrase to define for the jury specific  
9 intent. It is not a phrase that the defense is making up out  
10 of thin air. It is a common legal phrase used to define  
11 specific intent.

12 THE COURT: OK.

13 MR. HANEY: Your Honor, my only point would be on  
14 behalf of my client, at the point where it says "you may  
15 consider," that last sentence, which does piggyback on the  
16 comments by Mr. Chaney after "accordingly," but more  
17 specifically, "You may consider any evidence that the  
18 defendants intended that the relevant coach would intentionally  
19 not disclose, or conceal, material information about a  
20 financial or personal conflict of interest, money received or  
21 any behavior, indicating consciousness of guilt as evidenced by  
22 a specific intent to defraud," we would object to that last  
23 sentence in that particular instruction, your Honor.

24 THE COURT: Very well. Over the defense objections, I  
25 will leave this as is except with respect to the sentence that

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1 begins "accordingly," it will read: "Accordingly, when the  
2 necessary result of a scheme to deceive the university you are  
3 considering, fraudulent intent may be inferred from the scheme  
4 itself."

5 Actually, does that make sense?

6 MR. CHANEY: It does. I think you skipped the word  
7 "is."

8 THE COURT: OK.

9 MR. CHANEY: But yes.

10 THE COURT: "Is to deceive." OK. So we'll make that  
11 change.

12 Ms. Dong, can you do that and print it out for me, and  
13 then we'll bring the jury out. OK. And make another half a  
14 dozen copies for the jury.

15 Can you tell the CSO to bring out the jury.

16 THE DEPUTY CLERK: Yes.

17 (Discussion off the record)

18 MR. CHANEY: Your Honor, do I have like five seconds  
19 before the jury comes out?

20 THE COURT: Five seconds.

21 MR. CHANEY: OK. I would also cite to *Jacobowitz*,  
22 which is 877 F.2d 162, Second Circuit from 1989: The intent to  
23 defraud means that the offender has a conscious, objective  
24 desire or purpose to deceive.

25 THE COURT: I took that out primarily because -- just



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1 to make easier for the jury, just to put it in as natural  
2 language as possible. I think that the essence of that phrase  
3 is in there.

4 Off the record.

5 (Discussion off the record)

6 THE COURT: Several of the jurors apparently took a  
7 break, get out of the room, and they're working their way back,  
8 I hope.

9 (Jury present)

10 THE COURT: Everyone, please be seated.

11 Good afternoon, ladies and gentlemen. Good to see you  
12 all again. We've gotten your note, and it reads -- it's been  
13 marked Court Exhibit 8, and it reads as follows:

14 "On the bottom of page 30, specific intent to defraud  
15 means to knowingly, willfully, and with the specific intent to  
16 deceive for the purpose of depriving ... Can you redefine  
17 without using the same term? Please also send more coffee!  
18 Smiley face."

19 OK. So I will read you this further instruction, and  
20 I will also provide copies of it for you.

21 Because intent is a state of mind, it can rarely be  
22 proved with direct evidence and ordinarily must be inferred  
23 from the facts of the case. More specifically, the ultimate  
24 fact of criminal intent, though subjective, may be established  
25 by circumstantial evidence based on a person's words, his

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1 conduct, his acts, and all of the surrounding circumstances,  
2 and the logical inferences that may be drawn from them. You  
3 may also infer, but are not required to infer, that people  
4 intend the natural and probable consequences of their actions.

5 Whether the particular defendant you are considering  
6 intended to break the law does not matter. What matters is  
7 whether he intended to do that which is unlawful. On the facts  
8 of this case, a person acts with specific intent to deceive  
9 when an objective of his conduct is to deceive for the purpose  
10 of depriving the relevant university of its right to its  
11 coach's honest services. Accordingly, when the necessary  
12 result of a scheme is to deceive the university you are  
13 considering, fraudulent intent may be inferred from the scheme  
14 itself. You may consider any evidence that the defendants  
15 intended that the relevant coach would intentionally not  
16 disclose, or conceal, material information about a financial or  
17 personal conflict of interest, money received, or any behavior  
18 indicating consciousness of guilt as evidence of specific  
19 intent to defraud.

20 So that is the further instruction. We will provide  
21 you with copies. You may now resume with your deliberations.

22 (Jury deliberations resumed at 12:21 p.m.)

23 THE COURT: Everyone can be seated. We will await  
24 further word.

25 (Recess pending verdict)

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1 THE COURT: The parties can come up in the Dawkins  
2 matter. I assume that you have been told that we received a  
3 note from the jury that they have reached a verdict.

4 Does either side wish me to poll the jury?

5 MR. CHANEY: Yes, please, your Honor.

6 THE COURT: Very well. The jury will be polled.

7 Ms. Rivera.

8 So the parties are aware, it's my practice to speak  
9 with the jury afterwards. I speak with them for five minutes.  
10 I don't speak with them about the substance of the case. I  
11 simply ask them about the experience and whether there's  
12 anything that we as the court can do to make the experience  
13 better, that type of thing. I will also instruct them that  
14 they will be free to speak with anyone, including the parties  
15 and the press, if you folks want to speak with them, but that  
16 they are also free to simply go home. And if that is what they  
17 express to you once they are done, then all of you, including  
18 members of the press, are to leave them alone and let them go  
19 on their way. OK?

20 MR. HANEY: Thank you, your Honor.

21 (At 2:47 p.m., jury present)

22 THE COURT: Everyone, please be seated.

23 Ms. Rivera is getting a verdict form.

24 Ladies and gentlemen, we have received your note. It  
25 has been marked Court Exhibit 8A, and it reads as follows: "We

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1 have reached a verdict."

2 Is that correct, madam foreperson?

3 THE FOREPERSON: It is, your Honor.

4 THE COURT: Ms. Rivera, would you please get the  
5 verdict.

6 Ms. Rivera, please take the verdict.

7 THE DEPUTY CLERK: Count One, conspiracy to commit  
8 bribery. As to Count One, how do you find the defendant  
9 Christian Dawkins, guilty or not guilty?

10 THE FOREPERSON: Guilty.

11 THE DEPUTY CLERK: As to Count One, how do you find  
12 the defendant Merl Code, guilty or not guilty?

13 THE FOREPERSON: Guilty.

14 THE DEPUTY CLERK: Count Two, bribery. As to Count  
15 Two, how do you find the defendant Christian Dawkins, guilty or  
16 not guilty?

17 THE FOREPERSON: Guilty.

18 THE DEPUTY CLERK: As to Count Two, how do you find  
19 the defendant Merl Code, guilty or not guilty?

20 THE FOREPERSON: Not guilty.

21 THE DEPUTY CLERK: Count Three, conspiracy to commit  
22 honest services wire fraud. As to Count Three, how do you find  
23 the defendant Christian Dawkins, guilty or not guilty?

24 THE FOREPERSON: Not guilty.

25 THE DEPUTY CLERK: As to Count Three, how do you find

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1 the defendant Merl Code, guilty or not guilty?

2 THE FOREPERSON: Not guilty.

3 THE DEPUTY CLERK: Count Four, honest services wire  
4 fraud, Lamont Evans. As to Count Four, how do you find the  
5 defendant Christian Dawkins, guilty or not guilty?

6 THE FOREPERSON: Not guilty.

7 THE DEPUTY CLERK: Count Five, honest services fraud,  
8 Emanuel Richardson. As to Count Five, how do you find the  
9 defendant Christian Dawkins, guilty or not guilty?

10 THE FOREPERSON: Not guilty.

11 THE DEPUTY CLERK: Count Six, conspiracy to violate  
12 the Travel Act. As to Count Six, how do you find the defendant  
13 Christian Dawkins, guilty or not guilty?

14 THE FOREPERSON: Not guilty.

15 THE DEPUTY CLERK: As to Count Six, how do you find  
16 the defendant Merl Code, guilty or not guilty?

17 THE FOREPERSON: Not guilty.

18 THE COURT: You may be seated.

19 Ladies and gentlemen, on behalf of the court, on  
20 behalf of the parties, I want to thank you for all of your hard  
21 work. It's been very evident to me just how hard you've been  
22 working. And I want you to appreciate that a defining feature  
23 of our system of justice is that when we have very difficult,  
24 indeed, momentous decision to make involving the very liberty  
25 of our fellow citizens, we literally turn to our neighbors, and

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1 we rely on your collective wisdom to help us make these very  
2 important decision. So I hope that you appreciate the very  
3 important role that you have played in that regard.

4 Your service is now complete. You may now discuss  
5 this case with anyone you wish, or if you wish, you may discuss  
6 this case with no one. The parties may wish to speak with you  
7 as you leave in order that they may learn what motivated you to  
8 choose or to decide the case in the way that you did, and you  
9 may discuss this case -- you may speak with them if you wish,  
10 and if you do not wish to speak with them, simply let them know  
11 that, and they will leave you alone and you may go about your  
12 lives.

13 If I can bother you just to wait a couple minutes in  
14 the jury room, and I'll be back in just a second. OK.

15 MR. SOLOWIEJCZYK: Your Honor, they asked to poll the  
16 jury.

17 THE COURT: Oh, I'm sorry. You have to sit back down.  
18 My fault. I need to ask each of you a question.

19 Juror No. 1, is this your verdict, yes or no?

20 JUROR: Yes.

21 THE COURT: Juror No. 2, is this your verdict?

22 JUROR: Yes.

23 THE COURT: Juror No 3, is this your verdict?

24 JUROR: Yes, it is.

25 THE COURT: Juror No. 4, is this your verdict?

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1 JUROR: Yes.

2 THE COURT: Juror No. 5, is this your verdict?

3 JUROR: Yes.

4 THE COURT: Juror No. 6, is this your verdict?

5 JUROR: Yes.

6 THE COURT: Juror No. 7, is this your verdict?

7 JUROR: Yes.

8 THE COURT: Juror No. 8, is this your verdict?

9 JUROR: Yes.

10 THE COURT: Juror No. 9, is this your verdict?

11 JUROR: Yes.

12 THE COURT: Juror No. 10, is this your verdict?

13 JUROR: Yes.

14 THE COURT: Juror No. 11, is this your verdict?

15 JUROR: Yes.

16 THE COURT: Juror No. 12, is this your verdict?

17 JUROR: Yes.

18 THE COURT: Thank you. So say you all. Now.

19 (Jury excused)

20 THE COURT: Everyone can be seated.

21 Folks, I don't know if you wanted to make motions now  
22 or if you wanted to reserve your right to make such motions.

23 MR. CHANEY: We would reserve at this time.

24 MR. HANEY: Reserve as well, your Honor. Thank you.

25 THE COURT: Unless there's anything else you want need

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1 me to do, I want to thank the attorneys and the attorneys that  
2 here on a *pro hac vice* basis. Your professionalism and  
3 courtesies were both always incredibly appreciated. And like I  
4 said, I'll speak with the jury; I'll speak with them briefly.  
5 You can speak with them if they wish. Otherwise, leave them  
6 alone. OK.

7 MR. HANEY: Yes, your Honor.

8 (Adjourned)